

in paragraph (b) of this section. Such a regulation under section 515(b) of the act shall not be effective during the grace period ending on the 90th day after its promulgation or on the last day of the 30th full calendar month after the regulation that classifies the device into class III is effective, whichever is later. See section 501(f)(2)(B) of the act. Accordingly, unless an effective date of the requirement for premarket approval is shown in the regulation for a device classified into class III in this part, the device may be commercially distributed without FDA's issuance of an order approving a PMA or declaring completed a PDP for the device. If FDA promulgates a regulation under section 515(b) of the act requiring premarket approval for a device, section 501(f)(1)(A) of the act applies to the device.

(b) Any new, not substantially equivalent, device introduced into commercial distribution on or after May 28, 1976, including a device formerly marketed that has been substantially altered, is classified by statute (section 513(f) of the act) into class III without any grace period and FDA must have issued an order approving a PMA or declaring completed a PDP for the device before the device is commercially distributed unless it is reclassified. If FDA knows that a device being commercially distributed may be a "new" device defined in this section because of any new intended use or other reasons, FDA may codify the statutory classification of the device into class III for such new use. Accordingly, the regulation for such a class III device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

[52 FR 17738, May 11, 1987]

§ 880.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

The Food and Drug Administration's (FDA's) decision to grant an exemption from the requirement of premarket notification (section 510(k) of the act) for a generic type of class I device is based upon the existing and reasonably foreseeable characteristics of commer-

cially distributed devices within that generic type. Because FDA cannot anticipate every change in intended use or characteristic that could significantly affect a device's safety or effectiveness, manufacturers of any commercially distributed class I device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification to FDA before introducing or delivering for introduction into interstate commerce for commercial distribution the device when:

(a) The device is intended for a use different from its intended use before May 28, 1976, or the device is intended for a use different from the intended use of a preamendments device to which it had been determined to be substantially equivalent; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(b) The modified device operates using a different fundamental scientific technology than that in use in the device before May 28, 1976; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using a deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology.

[54 FR 25050, June 12, 1989]

Subpart B [Reserved]

Subpart C—General Hospital and Personal Use Monitoring Devices

§ 880.2200 Liquid crystal forehead temperature strip.

(a) *Identification.* A liquid crystal forehead temperature strip is a device applied to the forehead that is used to indicate the presence or absence of fever, or to monitor body temperature changes. The device displays the color changes of heat sensitive liquid crystals corresponding to the variation in the surface temperature of the skin.

The liquid crystals, which are cholesteric esters, are sealed in plastic.

(b) *Classification*. Class II (performance standards).

§ 880.2400 Bed-patient monitor.

(a) *Identification*. A bed-patient monitor is a battery-powered device placed under a mattress and used to indicate by an alarm or other signal when a patient attempts to leave the bed.

(b) *Classification*. Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

[45 FR 69682-69737, Oct. 21, 1980, as amended at 59 FR 63010, Dec. 7, 1994]

§ 880.2420 Electronic monitor for gravity flow infusion systems.

(a) *Identification*. An electronic monitor for gravity flow infusion systems is a device used to monitor the amount of fluid being infused into a patient. The device consists of an electronic transducer and equipment for signal amplification, conditioning, and display.

(b) *Classification*. Class II (performance standards).

§ 880.2460 Electrically powered spinal fluid pressure monitor.

(a) *Identification*. An electrically powered spinal fluid pressure monitor is an electrically powered device used to measure spinal fluid pressure by the use of a transducer which converts spinal fluid pressure into an electrical signal. The device includes signal amplification, conditioning, and display equipment.

(b) *Classification*. Class II (performance standards).

§ 880.2500 Spinal fluid manometer.

(a) *Identification*. A spinal fluid manometer is a device used to measure spinal fluid pressure. The device uses a hollow needle, which is inserted into the spinal column fluid space, to connect the spinal fluid to a graduated column so that the pressure can be measured by reading the height of the fluid.

(b) *Classification*. Class II (performance standards).

§ 880.2700 Stand-on patient scale.

(a) *Identification*. A stand-on patient scale is a device intended for medical purposes that is used to weigh a patient who is able to stand on the scale platform.

(b) *Classification*. Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807. The device also is exempt from the good manufacturing practice regulation in part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 880.2720 Patient scale.

(a) *Identification*. A patient scale is a device intended for medical purposes that is used to measure the weight of a patient who cannot stand on a scale. This generic device includes devices placed under a bed or chair to weigh both the support and the patient, devices where the patient is lifted by a sling from a bed to be weighed, and devices where the patient is placed on the scale platform to be weighed. The device may be mechanical, battery powered, or AC-powered and may include transducers, electronic signal amplification, conditioning and display equipment.

(b) *Classification*. Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

[45 FR 69682-69737, Oct. 21, 1980, as amended at 61 FR 1123, Jan. 16, 1996]

§ 880.2740 Surgical sponge scale.

(a) *Identification*. A surgical sponge scale is a nonelectrically powered device used to weigh surgical sponges that have been used to absorb blood during surgery so that, by comparison with the known dry weight of the sponges, an estimate may be made of the blood lost by the patient during surgery.

(b) *Classification*. Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807. The device also is exempt from the good manufacturing practice regulation in part 820 with the exception of § 820.180, with respect to